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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

THE NVIDIA GPU LITIGATION

) Case No. C 08-4312 JW
)
)

CLASS ACTION

This Document Relates To:

) PLAINTIFFS' STATUS REPORT
) AND COMMENTS RE: REQUEST BY
) CERTAIN CLASS MEMBERS FOR
) EXPEDITED HEARING
)
)

ALL ACTIONS.

) DATE: March 14, 2011
) TIME: 9:00 a.m.
) CTRM: 8, 4th Floor
) JUDGE: Hon. James Ware

PLAINTIFFS' STATUS REPORT AND COMMENTS RE EXPEDITED HEARING Case No. C 08-4312 JW	
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STATUS REPORT

Plaintiffs provide the following Status Report to apprise the Court of the progress of the claims administration process and certain other matters that have arisen since the Court entered final approval on December 20, 2010.

The Settlement Agreement provides in relevant part:

2.1 Subject to Section 2.6, members of the Settlement Class who own a Class Computer that has experienced an Identified Symptom, and who submit a timely, complete and valid claim form to the Administrator within the Claim Period, shall, upon verification and approval by the Administrator, be entitled to the replacement of the NVIDIA GPU, MCP and/or motherboard, as the case may be (the “Chip Replacement”), free of charge.

* * *

2.6 The Parties recognize that the HP models included as Class Computers incorporate motherboards or other components, apart from the NVIDIA GPU or MCP, that are no longer readily available in sufficient quantities for use as replacement parts. Therefore ***a replacement computer of like or similar kind and equal or similar value will be provided to the consumer at NVIDIA’s expense. The Parties will meet and confer in good faith and agree on a suitable replacement of like or similar kind or equal or similar value.***

(Emphasis added).

Following the Court’s granting of final approval, the Parties continued to meet and confer concerning the various computer models that were to be provided to Class members as “replacement computer[s]” pursuant to ¶ 2.6 of the Settlement Agreement.

Defendants initially proposed providing Class members: (i) who purchased a notebook Class Computer eligible for replacement (certain HP and Compaq models sold by HP, as listed in the Settlement Agreement) with a new Compaq CQ-50 notebook computer, which was later adjusted to be a better model, a Compaq CQ 56-1150X; and Class members who purchased a Pavillion tx1xxx tablet computer, with a new ASUS T101MT-EU17-BK tablet computer.

Following receipt of NVIDIA’s proposal, and evaluation of information and consultation with an expert following extensive negotiations, the parties agreed that: (i) the CQ-56-115DX would be provided to qualified Class members as a replacement for the notebook Class

Computers; and (ii) qualified Class members would be provided with the option of choosing either the CQ-56-115DX *or* the ASUS T101MT-EU17-BK as a replacement for their Pavillion tx1xxx Class Computers. The Settlement website was then updated accordingly to inform Class members of the computers that would be provided to them in the event that they elected to replace their Class Computers rather than having them repaired at NVIDIA's expense.

It should be noted that under the Settlement, if Class Members' individual computers have specific features important to them, which are not suitable to a class wide replacement, they have always had the option to have their eligible notebook or tablet computers repaired and submit the claim for reimbursement. Settlement Agreement ¶ 2.10.

To date, the Claims Administrator has received thousands of claims from Class members who elected to replace their eligible Class Computers with the two models that are being offered as replacements to qualified Class members. Class members are not limited in the number of eligible Class Computers they may replace nor are they limited in the number of reimbursement claims they may file.

During the course of administering the Settlement, the Claims Administrator and Class Counsel received inquiries and complaints from some individuals who contend that the two models of computers being offered as replacement computers pursuant to ¶ 2.6 of the Settlement Agreement are not "of like or similar kind and equal or similar value" to the Class Computer that they were intended to replace.

COMMENTS RE: REQUEST FOR EXPEDITED HEARING

Following several telephonic discussions, an attorney for five dissatisfied Class members expressed his desire to have the Court rule before the Claim Period closes on March 14, 2011 on the issue of whether the two models of computers that are being offered to the Class as replacement computers pursuant to ¶ 2.6 of the Settlement Agreement are "of like or similar kind and equal or similar value" to the Class Computers they are intended to replace.

Class Counsel conferred with the attorney for the five class members concerning this issue, and indicated Class Counsel would likely not oppose the attorney's initial proposal of : (1)

class members' opening brief filed on February 28, 2011; (2) Class Counsel's opposition brief filed on March 4, 2011; (3) no reply brief; and (4) a hearing at 9:00 a.m. on March 7, 2011. The February 23, 2011 filing, however, reflects a change of that proposal, and Class Counsel did not authorize the attorney's representation that Class Counsel would not oppose it. Class Counsel's indication of non-opposition was predicated on the approach of an opening brief, a responsive/opposition brief and no a reply. However, if the Court feels that a hearing is warranted, Class counsel will be happy for the Court to consider and rule on this issue before the Claim Period closes. Class Counsel are willing to not oppose an approach under the attorney's elongated schedule requested on February 23, but within the original parameter. Accordingly, Plaintiffs respectfully request that the Court order briefing and oral argument on the proposed expedited schedule:

Opening Brief filed by Contestants:	On or before March 1, 2011
Opposition Brief(s) filed by Class Counsel and NVIDIA counsel:	On or before March 8, 2011
Reply filed:	None
Hearing:	March 14, 2011

DATED: February 24, 2011

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DECLARATION OF SERVICE BY CM/ECF AND/OR MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, employed in the County of Los Angeles, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is One California Plaza, 300 South Grand Avenue, Suite 3900, Los Angeles, California 90071-3149.

2. Declarant hereby certifies that on February 24, 2011, declarant served the PLAINTIFFS' STATUS REPORT AND COMMENTS RE: REQUEST BY CERTAIN CLASS MEMBERS FOR EXPEDITED HEARING by electronically filing the foregoing document listed above by using the Case Management/ Electronic Case filing system.

3. Declarant further certifies that those Participants in the case who are registered CM/ECF users will be served by the court's CM/ECF system. Participants in the case that are not registered CM/ECF users will be served by First-Class Mail, postage pre-paid or have dispatched to a third-party commercial carrier for delivery to the non-CM/ECF participants.

4. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 24th day of February, 2011, at Los Angeles, California.


EDIZABETH VILLALOBOS